

APPENDIX 7

A P P R O V E D

As to Form

City Solicitor

As to Content

Head of Department

Bylaw No. 9303

Being a Bylaw to amend Bylaw No. 7700

WHEREAS Council gave third reading to Bylaw No. 7700, being a bylaw to designate certain portions of the Macdonald Hotel as a Municipal Historic Resource;

AND WHEREAS it is necessary to clarify the extent of the designation and the compensation to be granted therefor;

NOW THEREFORE the Municipal Council of the City of Edmonton hereby enacts as follows:

1. Bylaw #7700 is hereby amended by deleting Schedules "A" and "C" attached thereto and substituting Schedules "A" and "C" attached hereto.

READ a first time this *26th* day of *September* A.D. 1989;

READ a second time this *26th* day of *September* A.D. 1989;

READ a third time this *26th* day of *September* A.D. 1989.

CITY OF EDMONTON

MAYOR

CITY CLERK

JASPER AVENUE.

SCHEDULE "A"
MUNICIPAL HISTORIC RESOURCE

BLOCK B
PLAN 3073 AJ

AREA 1
2014.0 0-00

DC 1

BLOCK A
PLAN 3073 AJ

100 W. STREET

SCHEDULE "C" to Bylaw #7700 to Designate Certain Portions of the Macdonald Hotel as a Municipal Historic Resource.

1. Terms used in this Schedule C to Bylaw #7700 shall have the meaning assigned to them in the Development Agreement between the City of Edmonton ("City") and the Canadian National Railway Company ("CN") and made as of January 14th, 1985 ("the Development Agreement"), which Agreement was assigned from CN to Canadian Pacific Hotels Corporation ("CPH") on March 30th, 1988.

2. The City is required by law to grant compensation for the designation of the Original Macdonald Hotel as a municipal historic resource pursuant to the Historical Resources Act ("the Act"). It was agreed in the Development Agreement that:

- a. the potential transfer of unused density relating to the said lands to other lands, and
- b. the granting of tax relief in the form of a rebate of a portion of the municipal taxes collected by the City with respect to the Renovated Macdonald Hotel

represent adequate compensation for such designation.

3. The City recognizes that in the event the Project on the said lands, as defined in the Development Agreement, is constructed and completed in its entirety there will be unused density related to the said lands to the extent of unbuilt commercial floor area of 16,179 square metres and unbuilt residential floor area of 27,846 square metres ("the unused density"). In the further event that City Council adopts, either by resolution or by bylaw, a policy permitting the transfer of development rights or unused density then in such event the unused density, as herein described, shall be recognized by the City in such policy and may be transferred by the then owners of the said lands to other lands in the City of Edmonton.

4.
 - a. Insofar as it is legally able to do so under s.24(4) of the Act, as compensation for the adoption of Bylaw 7700 the City hereby grants tax relief in the form of a cancellation or rebate of a portion of the municipal property taxes levied by the City for the Renovated Macdonald Hotel and Lot 2, Plan 852 2037 during the five year period commencing on January 1st of the year in which the Renovated Macdonald Hotel is reopened to the public and is operating as a full service hotel ("the five year period"). "Municipal property taxes" shall mean the tax amount levied by the City based on the City assessment and the mill rate established by City Council but specifically excludes the school taxes levied by the School Boards in Edmonton and the Provincial Department of Education.
 - b. It is the intention of the parties that during each year of the five year period referred to in the preceding paragraph, CPH shall pay to the City \$35,000.00 in municipal property

taxes on the Renovated Macdonald Hotel and Lot 2, Plan 852 2037. The portion of the municipal taxes which shall be cancelled or rebated each year during the five year period shall be the difference between \$35,000.00 and the municipal property taxes levied in each year of the five year period on the Renovated Macdonald Hotel and said Lot 2. PROVIDED HOWEVER, that in no event shall the City be obligated to cancel or rebate a total amount of municipal property taxes related to the Renovated Macdonald Hotel and said Lot 2 in excess of \$900,000.00 during the five year period. If the total of municipal property taxes cancelled or rebated during the five year period exceeds \$900,000.00 during the said five year period, then the City shall not be obligated to cancel or rebate any sum in excess of that amount but CPH shall be obligated to pay municipal property taxes due in excess of that amount with respect to the Renovated Macdonald Hotel and said Lot 2.

- c. CPH shall be entitled to tax cancellations or rebates forthwith upon receiving notice of the amount of municipal property taxes due for the Renovated Macdonald Hotel and said Lot 2 and due for each year of the five year period. The City shall forthwith arrange for cancellations or rebates having regard to the intent herein and the City shall, pursuant to the power granted in Section 24(4) of the Act, make the cancellation or rebate according to the terms herein. In the year that the aggregate amount of tax relief realized by CPH is \$900,000.00, CPH shall be liable to pay to the City that portion of the municipal taxes levied against the Renovated Macdonald Hotel and said Lot 2 which, if forgiven, would result in aggregate tax relief realized by CPH upon the said Lands exceeding \$900,000.00.

ENCLOSURE II

PROPOSED SCHEDULE "C"

SCHEDULE "C" to Bylaw #7700 to Designate Certain Portions of the Macdonald Hotel as a Municipal Historic Resource.

1. Terms used in this Schedule C to Bylaw #7700 shall have the meaning assigned to them in the Development Agreement between the City of Edmonton ("City") and the Canadian National Railway Company ("CN") and made as of January 14th, 1985 ("the Development Agreement"), which Agreement was assigned from CN to Canadian Pacific Hotels Corporation ("CPH") on March 30th, 1988.

2. The City is required by law to grant compensation for the designation of the Original Macdonald Hotel as a municipal historic resource pursuant to the Historical Resources Act ("the Act"). It was agreed in the Development Agreement that:

- a. the potential transfer of unused density relating to the said lands to other lands, and
- b. the granting of tax relief in the form of a rebate of a portion of the municipal taxes collected by the City with respect to the Renovated Macdonald Hotel

represent adequate compensation for such designation.

3. The City recognizes that in the event the Project on the said lands, as defined in the Development Agreement, is constructed and completed in its entirety there will be unused density related to the said lands to the extent of unbuilt commercial floor area of 16,179 square metres and unbuilt residential floor area of 27,846 square metres ("the unused density"). In the further event that City Council adopts, either by resolution or by bylaw, a policy permitting the transfer of development rights or unused density then in such event the unused density, as herein described, shall be recognized by the City in such policy and may be transferred by the then owners of the said lands to other lands in the City of Edmonton.

4. a. Insofar as it is legally able to do so under s.24(4) of the Act, as compensation for the adoption of Bylaw 7700 the City hereby grants tax relief in the form of a cancellation or rebate of a portion of the municipal property taxes levied by the City for the Renovated Macdonald Hotel and Lot 2, Plan 852 2037 during the five year period commencing on January 1st of the year in which the Renovated Macdonald Hotel is reopened to the public and is operating as a full service hotel ("the five year period"). "Municipal property taxes" shall mean the tax amount levied by the City based on the City assessment and the mill rate established by City Council but specifically excludes the school taxes levied by the School Boards in Edmonton and the Provincial Department of Education.

b. It is the intention of the parties that during each year of the five year period referred to in the preceding paragraph, CPH shall pay to the City \$35,000.00 in municipal property

EXISTING SCHEDULE "C"

"Schedule C" to Bylaw # 7722 to Designate Certain Portions of the Macdonald Hotel and the Designated Site as a Municipal Historic Resource

1. Terms used in this Schedule C to Bylaw # 7722 shall have the meaning assigned to them in the Development Agreement between the City of Edmonton ("City") and the Canadian National Railway Company ("CN") and made as of January 14, 1985 ("the Development Agreement").

2. The City is required by law to grant compensation for the designation of the Original Macdonald Hotel and the Designated Site as a municipal historic resource pursuant to the Historical Resources Act ("the Act"). The City and CN have agreed in the Development Agreement that

- (a) the potential transfer of unused density relating to the said lands to other lands, and
- (b) the granting of tax relief in the form of a rebate of a portion of the municipal taxes collected by the City with respect to the Renovated Macdonald Hotel

represent adequate compensation for such designation.

3. The City recognizes that in the event the Project on the said lands, as defined in the Development Agreement is constructed and completed in its entirety there will be unused density related to the said lands to the extent of unbuilt commercial floor area of 16,179 square metres and unbuilt residential floor area of 27,846 square metres ("the unused density"). In the further event that City Council adopts, either by resolution or by bylaw, a policy permitting the transfer of development rights or unused density then in such event the unused density, as herein described, shall be recognized by the City in such policy and may be transferred by the then owners of the said lands to other lands in the City of Edmonton.

4. The City intends to grant and hereby grants:

- (a) insofar as it is legally able to do so under Sec. 24(4) of the said Act as part of the compensation for such designation, tax relief in the form of a cancellation or

PROPOSED SCHEDULE "C"

EXISTING SCHEDULE "C"

taxes on the Renovated Macdonald Hotel and Lot 2, Plan 852 2037. The portion of the municipal taxes which shall be cancelled or rebated each year during the five year period shall be the difference between \$35,000.00 and the municipal property taxes levied in each year of the five year period on the Renovated Macdonald Hotel and said Lot 2. PROVIDED HOWEVER, that in no event shall the City be obligated to cancel or rebate a total amount of municipal property taxes related to the Renovated Macdonald Hotel and said Lot 2 in excess of \$900,000.00 during the five year period. If the total of municipal property taxes cancelled or rebated during the five year period exceeds \$900,000.00 during the said five year period, then the City shall not be obligated to cancel or rebate any sum in excess of that amount but CPH shall be obligated to pay municipal property taxes due in excess of that amount with respect to the Renovated Macdonald Hotel and said Lot 2.

c. CPH shall be entitled to tax cancellations or rebates forthwith upon receiving notice of the amount of municipal property taxes due for the Renovated Macdonald Hotel and said Lot 2 and due for each year of the five year period. The City shall forthwith arrange for cancellations or rebates having regard to the intent herein and the City shall, pursuant to the power granted in Section 24(4) of the Act, make the cancellation or rebate according to the terms herein. In the year that the aggregate amount of tax relief realized by CPH is \$900,000.00, CPH shall be liable to pay to the City that portion of the municipal taxes levied against the Renovated Macdonald Hotel and said Lot 2 which, if forgiven, would result in aggregate tax relief realized by CPH upon the said Lands exceeding \$900,000.00.

d. Delete

rebate of a portion of the municipal property taxes levied by the City on the Renovated Macdonald Hotel and the Designated Site during the five year period commencing on January 1 of the year in which an occupancy permit for any portion of the residential component of the first phase of the Renovated Macdonald Hotel is issued by the City ("the five year period"). For the purposes of this Bylaw 1700 "municipal property taxes" shall mean the tax amount levied by the City based on the City assessment and the millrate established by Edmonton City Council but specifically excludes the school taxes levied by the School Boards in Edmonton and the Provincial Department of Education.

- (b) It is the intention of the parties to the Development Agreement that during each year of the five year period CN shall pay to the City \$35,000.00 in municipal property taxes on the first phase of the Renovated Macdonald Hotel and the Designated Site. The portion of municipal taxes which shall be cancelled or rebated each year during the five year period shall be the difference between \$35,000.00 and the municipal property taxes levied in each year of the five year period on the first phase of the Renovated Macdonald Hotel and the Designated Site. PROVIDED HOWEVER, that in no event shall the City be obligated to cancel or rebate a total amount of municipal property taxes related to the Renovated Macdonald Hotel and the Designated Site in excess of \$900,000.00 during the five year period. If the total of municipal property taxes cancelled or rebated during the five year period for the Renovated Macdonald Hotel and the Designated Site exceeds \$900,000.00 during the said five year period then the City shall not be obligated to cancel or rebate any sum in excess of that amount but CN has agreed in the Development Agreement that the CN shall be obligated to pay municipal property taxes due in excess of that amount with respect to the first phase of the Renovated Macdonald Hotel and the Designated Site.
- (c) CN shall be entitled to apply for such tax cancellations or rebates forthwith upon receiving notice of the amount of municipal property taxes due for the Renovated Macdonald Hotel and the Designated Site and due for each year of the five year period. Upon receipt of such application City Council shall forthwith consider such claim for cancellations or rebates having regard to the intent of this Article and City Council shall, pursuant to the power granted in Sec. 24(4) of the Act, make the cancellation or rebate according to the terms of this Article 3.3.
- (d) If at any time during the five year period CN is issued an occupancy permit by the City for the second phase of the Renovated Macdonald Hotel, Office Tower No. 1 or Office Tower No. 2, then in that event on January 1 of the year in which such an occupancy permit is issued all tax relief as described in this Bylaw 1700 shall cease and determine and CN shall not be entitled to apply for such cancellation or rebate thereafter. In the event CN has already received a cancellation or rebate for municipal property taxes in that particular year and related to the Renovated Macdonald Hotel and the Designated Site the liability for municipal property taxes for that year shall revive and shall be paid to the City by CN as agreed by CN in the Development Agreement.